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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
Sacramento Division**

Michael Crook, individually and on
behalf of all others similarly situated;

Plaintiff,

-against-

Credit Control, LLC, LVNV
Funding LLC,
and John Does 1-25.

Defendant(s).

Case No.:

CLASS ACTION COMPLAINT for
violations of the Fair Debt Collection
Practices Act, 15 U.S.C. § 1692 *et seq*

Plaintiff Michael Crook hereinafter, (“Plaintiff”), a California resident, brings this Class Action Complaint by and through his attorneys, against Defendant Credit Control LLC (hereinafter “Defendant CC”) and Defendant LVNV Funding LLC (hereinafter “Defendant LVNV”), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiff’s counsel, except for

1 allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's
2 personal knowledge.

3 4 **INTRODUCTION/PRELIMINARY STATEMENT**

5 1. Congress enacted the FDCPA in 1977 in response to the "abundant
6 evidence of the use of abusive, deceptive, and unfair debt collection practices by
7 many debt collectors." 15 U.S.C. §1692(a). At that time, Congress was
8 concerned that "abusive debt collection practices contribute to the number of
9 personal bankruptcies, to material instability, to the loss of jobs, and to invasions
10 of individual privacy." *Id.* Congress concluded that "existing laws...[we]re
11 inadequate to protect consumers," and that "the effective collection of debts"
12 does not require "misrepresentation or other abusive debt collection practices."
13 15 U.S.C. §§ 1692(b) & (c).

14 2. Congress explained that the purpose of the Act was not only to
15 eliminate abusive debt collection practices, but also to "insure that those debt
16 collectors who refrain from using abusive debt collection practices are not
17 competitively disadvantaged." *Id.* § 1692(e). After determining that the existing
18 consumer protection laws were inadequate~ *id.* § 1692(b), Congress gave
19 consumers a private cause of action against debt collectors who fail to comply
20 with the Act. *Id.* § 1692k.

21 22 23 24 25 26 **JURISDICTION AND VENUE**

1 3. The Court has jurisdiction over this class action pursuant to 28 U.S.C.
2 § 1331, as well as 15 U.S.C. § 1692 et. seq. The Court also has pendent
3 jurisdiction over the State law claims in this action pursuant to 28 U.S.C.
4 § 1367(a).

5
6 4. Venue is proper in this judicial district pursuant to 28 U.S.C.
7 § 1391(b)(2) as this is where the Plaintiff resides as well as where a substantial
8 part of the events or omissions giving rise to the claim occurred.

9
10 **NATURE OF THE ACTION**

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12 5. Plaintiff brings this class action on behalf of a class of California
13 consumers under § 1692 et seq. of Title 15 of the United States Code, commonly
14 referred to as the Fair Debt Collections Practices Act ("FDCPA"), and

15
16 6. Plaintiff is seeking damages and declaratory and injunctive relief.

17 **PARTIES**

18
19 7. Plaintiff is a resident of the State of California, County of Sacramento,
20 residing at 3051 Yarwood Way, Sacramento, CA 95833.

21
22 8. Defendant Credit Control LLC is a "debt collector" as the phrase is
23 defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at
24 5757 Phantom Drive, Suite 330, Hazelwood, MO 63042 and can be served upon
25 its registered agent, C T Corporation System at 818 West Seventh Street, Suite
26 930, Los Angeles, CA 90017.
27
28

1 9. Upon information and belief, Defendant Credit Control LLC is a
2 company that uses the mail, telephone, and facsimile and regularly engages in
3 business the principal purpose of which is to attempt to collect debts alleged to
4 be due another.
5

6 10. Defendant LVNV is a "debt collector" as the phrase is defined in 15
7 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at 200 Meeting
8 Street, Ste #206, Charleston, South Carolina 29401.
9

10 11. Upon information and belief, Defendant LVNV is a company that uses
11 the mail, telephone, and facsimile and regularly engages in business the
12 principal purpose of which is to attempt to collect debts alleged to be due
13 another.
14

15 12. John Does 1-25, are fictitious names of individuals and businesses
16 alleged for the purpose of substituting names of Defendants whose identities
17 will be disclosed in discovery and should be made parties to this action.
18
19

20 **CLASS ALLEGATIONS**

21 13. Plaintiffs bring this claim on behalf of the following case, pursuant to
22 Fed. R. Civ. P. 23(a) and 23(b)(3).
23

24 14. The Class consists of:

- 25 a. all individuals with addresses in the State of California;
26 b. to whom Defendant Credit Control LLC sent a collection letter
27 attempting to collect a consumer debt;
28

- c. on behalf of Defendant LVNV;
- d. that states that due to the age of the debt, Defendant Credit Control LLC will not sue on the debt, implying that the Defendant Credit Control has the ability to file a lawsuit on the debt;
- e. and informs the consumer that the debt will be reported to credit reporting agencies as long as the law permits, without giving specific dates of the age of the debt;
- f. which letter was sent on or after a date one (1) year prior to the filing of this action and on or before a date twenty-one (21) days after the filing of this action.

15. The identities of all class members are readily ascertainable from the records of Defendants and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.

16. Excluded from the Plaintiff Classes are the Defendants and all officers, members, partners, managers, directors and employees of the Defendants and their respective immediate families, and legal counsel for all parties to this action, and all members of their immediate families.

17. There are questions of law and fact common to the Plaintiff Classes, which common issues predominate over any issues involving only individual class members. The principal issue is whether the Defendants' written

1 communications to consumers, in the forms attached as Exhibits A, violate 15
2 U.S.C. §§ 1692e, and 1692f.

3
4 18. The Plaintiffs' claims are typical of the class members, as all are based
5 upon the same facts and legal theories. The Plaintiffs will fairly and adequately
6 protect the interests of the Plaintiff Classes defined in this complaint. The
7 Plaintiffs have retained counsel with experience in handling consumer lawsuits,
8 complex legal issues, and class actions, and neither the Plaintiffs nor his
9 attorneys have any interests, which might cause them not to vigorously pursue
10 this action.
11

12
13 19. This action has been brought, and may properly be maintained, as a
14 class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil
15 Procedure because there is a well-defined community interest in the litigation:
16

17 a. **Numerosity:** The Plaintiffs are informed and believe, and on that
18 basis allege, that the Plaintiff Classes defined above are so
19 numerous that joinder of all members would be impractical.
20

21 b. **Common Questions Predominate:** Common questions of law and
22 fact exist as to all members of the Plaintiff Classes and those
23 questions predominate over any questions or issues involving
24 only individual class members. The principal issue is whether the
25 Defendants' written communications to consumers, in the forms
26 attached as **Exhibit A** violate 15 U.S.C. § 1692e and §1692f.
27
28

1 c. **Typicality:** The Plaintiff's claims are typical of the claims of the
2 class members. The Plaintiffs and all members of the Plaintiff
3 Classes have claims arising out of the Defendants' common
4 uniform course of conduct complained of herein.
5

6 d. **Adequacy:** The Plaintiffs will fairly and adequately protect the
7 interests of the class members insofar as Plaintiffs have no interests
8 that are adverse to the absent class members. The Plaintiffs are
9 committed to vigorously litigating this matter. Plaintiffs have also
10 retained counsel experienced in handling consumer lawsuits,
11 complex legal issues, and class actions. Neither the Plaintiffs nor
12 his counsel have any interests which might cause them not to
13 vigorously pursue the instant class action lawsuit.
14
15
16

17 e. **Superiority:** A class action is superior to the other available means
18 for the fair and efficient adjudication of this controversy because
19 individual joinder of all members would be impracticable. Class
20 action treatment will permit a large number of similarly situated
21 persons to prosecute their common claims in a single forum
22 efficiently and without unnecessary duplication of effort and
23 expense that individual actions would engender.
24
25
26

27 20. Certification of a class under Rule 23(b)(3) of the Federal Rules of
28 Civil Procedure is also appropriate in that the questions of law and fact common

1 to members of the Plaintiff Classes predominate over any questions affecting an
2 individual member, and a class action is superior to other available methods for
3 the fair and efficient adjudication of the controversy.
4

5 21. Depending on the outcome of further investigation and discovery,
6 Plaintiffs may, at the time of class certification motion, seek to certify a class(es)
7 only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).
8

9
10 **FACTUAL ALLEGATIONS**

11 22. Plaintiff repeats, reiterates and incorporates the allegations contained
12 in paragraphs numbered above herein with the same force and effect as if the
13 same were set forth at length herein.
14

15 23. Some time prior to April 23, 2020, an obligation was allegedly
16 incurred to HSBC Bank Nevada, N.A.
17

18 24. The HSBC Bank Nevada, N.A. obligation arose out of a transaction
19 involving a debt incurred by Plaintiff in which money, property, insurance or
20 services, which are the subject of the transaction, are primarily for personal,
21 family or household purposes.
22

23 25. The alleged HSBC Bank Nevada, N.A. obligation is a "debt" as
24 defined by 15 U.S.C. § 1692a(5).
25

26 26. HSBC Bank Nevada, N.A. is a "creditor" as defined by 15 U.S.C. §
27 1692a(4).
28

27. HSBC Bank Nevada, N.A. purportedly sold the debt to Defendant LVNV who contracted with the Defendant Credit Control LLC to collect the alleged debt.

28. Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and internet.

Violation I – April 23, 2020 Collection Letter

29. On or about April 23, 2020, Defendant sent the Plaintiff a collection letter (the “Letter”) regarding the alleged debt owed to University Faculty Assoc, Inc. **See Collection Letter – Attached hereto as Exhibit A.**

30. The letter states:

The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it. If you do not pay the debt, LVNV Funding LLC may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.

31. The letter states that due to the age of the debt, Defendant Credit Control LLC (“we”) will not sue the Plaintiff on it.

32. Defendant Credit Control LLC does not own the debt and is collecting on behalf of Defendant LVNV Funding LLC, therefore, Defendant Credit Control LLC is not in any position to threaten to sue Plaintiff since it does not own the debt.

1 33. Despite the letter's mention of Defendant LVNV's possible
2 continuance of reporting the debt to the credit reporting agencies, the letter
3 deceptively omits whether the current creditor, Defendant LVNV Funding LLC,
4 could sue or not, implying that Defendant LVNV could possibly sue on the
5 alleged debt, which it cannot due to expired the Statute of Limitations.
6

7
8 34. Plaintiff incurred an informational injury as Defendants' falsely and
9 misleadingly stated they would not sue, despite not owning the debt.
10

11 35. As a result of Defendants' deceptive, misleading and unfair debt
12 collection practices, Plaintiff has been damaged.
13

14 **COUNT I**
15 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15**
16 **U.S.C. §1692e et seq.**

17 36. Plaintiff repeats, reiterates and incorporates the allegations contained
18 in paragraphs above herein with the same force and effect as if the same were
19 set forth at length herein.

20 37. Defendants' debt collection efforts attempted and/or directed towards
21 the Plaintiff violated various provisions of the FDCPA, including but not
22 limited to 15 U.S.C. § 1692e.
23

24 38. Pursuant to 15 U.S.C. §1692e, a debt collector may not use any false,
25 deceptive, or misleading representation or means in connection with the
26 collection of any debt.
27
28

39. Defendant violated §1692e:

a. As the Letter it is open to more than one reasonable interpretation,
at least one of which is inaccurate in violation of §1692e(2).

b. By making a false and misleading representation in violation of §1692e(10).

40. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated Section 1692e et seq. of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

COUNT II
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES
ACT 15 U.S.C. §1692f *et seq.*

41. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

42. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692f.

43. Pursuant to 15 USC §1692f, a debt collector “may not use unfair or unconscionable means to collect or attempt to collect any debt.”

1 44. The Defendants violated 15 U.S.C. §1692f, by stating they would not
2 sue to the age of the debt, when they had no ability to sue, thereby harassing
3 the Plaintiff.
4

5 45. By reason thereof, Defendant is liable to Plaintiff for judgment that
6 Defendant's conduct violated Section 1692f et seq. of the FDCPA, actual
7 damages, statutory damages, costs and attorneys' fees.
8

9
10 **DEMAND FOR TRIAL BY JURY**
11

12 46. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
13 hereby requests a trial by jury on all issues so triable.
14

15 **PRAYER FOR RELIEF**
16

17 **WHEREFORE**, Plaintiff Michael Crook, individually and on behalf of all others
18 similarly situated, demands judgment from Defendant Credit Control LLC and
19 Defendant LVNV as follows:
20

21
22 a) Declaring that this action is properly maintainable as a Class Action
23 and certifying Plaintiff as Class representative, and Jonathan Stieglitz, Esq. as
24 Class Counsel;
25

26 b) Awarding Plaintiff and the Class statutory damages;

27 c) Awarding Plaintiff and the Class actual damages;
28

1 d) Awarding Plaintiff costs of this Action, including reasonable
2 attorneys' fees and expenses;

3
4 e) Awarding pre-judgment interest and post-judgment interest; and

5 f) Awarding Plaintiff and the Class such other and further relief as this
6 Court may deem just and proper.
7

8 Dated: June 2, 2020

9 THE LAW OFFICES OF
10 JONATHAN A. STIEGLITZ

11 By: /s/ Jonathan A Stieglitz
12 Jonathan A Stieglitz
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